

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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HUMBERTO LAGAR,

Plaintiff,

ORDER

v.

13-cv-751-wmc

RICHARD F. RAEMISCH, *et al.*,

Defendants.

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Plaintiff Humberto Lagar is presently incarcerated by the Wisconsin Department of Corrections at the Jackson Correctional Institution in Black River Falls. Plaintiff has filed a proposed civil action pursuant to 42 U.S.C. § 1983, and he has requested leave to proceed without prepayment of the filing fee. Now pending before the court is plaintiff's motion for "appointment of counsel." (Dkt. # 10). The motion is denied for reasons set forth briefly below.

First, plaintiff should be aware that civil litigants have no constitutional or statutory right to the appointment of counsel. *E.g.*, *Ray v. Wexford Health Sources, Inc.*, 706 F.3d 864, 866 (7th Cir. 2013); *Luttrell v. Nickel*, 129 F.3d 933, 936 (7th Cir. 1997). The court may exercise its discretion in determining whether to recruit counsel *pro bono* to assist an eligible plaintiff who proceeds under the federal *in forma pauperis* statute. *See* 28 U.S.C. § 1915(e)(1) ("The court may request an attorney to represent an indigent civil litigant *pro bono publico*."); *Luttrell*, 129 F.3d at 936. The court cannot, however, "appoint" counsel to represent an indigent civil litigant; it merely has the discretion to recruit a volunteer in an appropriate case. *Ray*, 706 F.3d at 867.

Second, assuming that plaintiff is eligible to proceed as an indigent litigant and that he seeks court assistance in locating a volunteer, his request for such assistance is premature. Before this case may proceed, the court is required by the Prison Litigation Reform Act (the "PLRA") to screen the complaint and determine whether any portion is frivolous or malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who by law is immune from such relief. *See* 28 U.S.C. § 1915A(b). Because plaintiff is incarcerated the PLRA applies to his case. Until the court completes the screening process and determines whether the case may proceed, plaintiff's request for assistance in locating volunteer counsel must be denied. Plaintiff may, however, re-file a motion requesting assistance in recruiting volunteer counsel *after* the court has issued a screening order in this case for purposes of 28 U.S.C. § 1915A(b).

#### ORDER

IT IS ORDERED that plaintiff's motion for appointment of counsel (Dkt. # 10) is DENIED.

Entered this 20th day of February, 2014.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge